



Wes Moore, Governor
Aruna Miller, Lt. Governor
Josh Kurtz, Secretary
David Goshorn, Deputy Secretary

DNR-FS-2023-03

SMALL BUSINESS COMPLIANCE GUIDE

Adopt new Regulation and Amendment to Subtitle 02 Fisheries Service
Regarding the Department's Regulations for Species In Need of Conservation — Longnose Gar
COMAR 08.02.05 Fish and 08.02.12 Endangered and Threatened Fish Species
Released April 28, 2023

This Guide is prepared in accordance with the requirements of State Government Article, §10-110, Annotated Code of Maryland. It is intended to help small businesses comply with the revised rules adopted in the above-referenced sections of the Code of Maryland Regulations. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small businesses, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply.

The Department will clarify or update the text of the Guide as an idea moves through the regulatory process. Direct your comments and recommendations, or calls for further assistance, to Fishing and Boating Services Regulatory Division:

410-260-8300

410-260-8DNR; toll free in Maryland 877-620-8DNR; TTY Users Call via the Maryland Relay

I. SUMMARY & FAQs

What is being considered?

The Department is considering declaring longnose gar as In Need of Conservation and establishing a creel limit for the species. Currently, there is no creel or size limit, or season for possession, established for longnose gar in Maryland. The Department is considering establishing a creel limit of 1 longnose gar per person from April 15 through June 30 and a creel limit of 5 longnose gar per person from July 1 through April 14. This creel limit would apply to both recreational anglers and commercial harvesters. These regulations would mirror the recreational creel limits in Virginia to provide consistency with adjacent jurisdictions and provide heightened protections during the spawning period when gar are more vulnerable to harvest due to their tendency to gather in large groups to spawn.

Why is this change necessary?

Longnose gar is "in need of conservation" in the tidal waters of Maryland. Near the northern edge of their Atlantic coast range, longnose gar is a native species to Maryland. It is one of seven species of an ancient family of fishes that pre-date the dinosaurs and are found only in North America. In Maryland, longnose gar has been reported from southerly tidal freshwaters of the Chesapeake Bay, including the Potomac, Pocomoke, Nanticoke, Wicomico, and Choptank Rivers. Its restricted distribution in Maryland and its life history aspects can make this species particularly vulnerable to population declines and possibly extirpation if mortality rates increase. Because it is a native, top predator in Maryland's tidal freshwater, the species must be protected and managed sustainably.

Anecdotally considered a "rough fish" by recreational anglers, gar has been maligned as a competitor to the game and sport fish that damages fishing gear, resulting in gar being thrown to shore to die rather than harvested as table fare. Gar is also a popular bowfishing target in Maryland and across the southeastern United States and can be harvested in high numbers. While the species was listed as a Species of Greatest Conservation Need in 2005 by the Maryland Department of Natural Resources, no regulations were adopted to prevent or limit the harvest of longnose gar in tidal waters. Because interest in longnose gar and bowfishing has not historically been widely popular in Maryland, regulations were not adopted to help protect the species.

However, the recent rise in popularity of bowfishing over the past ten years has increased because of interest in shooting northern snakehead and blue catfish. Recently, the Virginia Department of Wildlife Resources reduced its creel limit of longnose gar from five fish per person during their spawning season to one fish per person. In Maryland, more anglers and archers may encounter longnose gar, and unregulated harvest of the species may seriously threaten its conservation in Maryland waters. Often called "living fossils," gars possess characteristics that are now uncommon among fishes, making longnose gar a unique feature of the bay's ecosystem. The species include:

- A special tail type (i.e., abbreviate heterocercal).
- Unique scales (i.e., ganoid scales).
- A unique, highly vascularized lung-like gas bladder that enables it to "breathe air" when experiencing low dissolved oxygen.

During the spring spawning season, which can include April but mainly in May and June, adults will congregate in shallow, freshwater bays for spawning. Groups of adults can lie motionless near the water's

surface in slow water, bays, or coves and in waters with submerged aquatic vegetation or submerged wood to which their eggs adhere. Because of these behaviors, many spawning longnose gar can be harvested quickly. Unfortunately, the specialized spawning season and habitat (i.e., lentic-like embayments or coves) of longnose gar are shared with invasive fishes, northern snakehead and blue catfish specifically, both of which are popular bowfishing targets. The Department continues to encourage bowfishing for those invasive fishes but believes, based on their life history and restricted range, that longnose gar require additional protection by implementing a creel limit. Similar restrictions have long been used to manage other species of conservation interest, such as largemouth bass and striped bass, to great positive effect.

Who will this affect?

This change would affect anyone who harvests longnose gar.

Has this change been discussed with advisory commissions?

This idea was scoped with the Sport Fisheries Advisory Commission and Tidal Fisheries Advisory Commission at their April 2023 meetings.

What is the specific regulatory action?

Adopt new Regulation .31 under COMAR 08.02.05 Fish and amend Regulation .03 under COMAR 08.02.12 Endangered and Threatened Fish Species.

II. RECORDKEEPING AND REPORTING REQUIREMENTS

This action would not create any new recordkeeping or reporting requirements.

III. IMPLEMENTATION DATE

The Department anticipates this change could be effective by the beginning of 2024. However, the exact date cannot be determined. The Department will follow our normal proposal procedures if this concept moves forward.

This idea is in the scoping process (April 28 — May 14). During the scoping process, the Department gathers suggestions and ideas from stakeholders and others about how to solve a fishery problem or address a need. The goal of scoping is to identify issues, potential impacts, and reasonable alternatives associated with the issues so that management actions can be developed. After the public has had an opportunity to comment on possible management actions during the scoping process, the Department considers these comments and develops an appropriate management strategy.

If the action is necessary and appropriate, the rules will be promulgated following the Administrative Procedures Act described in Title 10, Subtitle 1 of the State Government Article Annotated Code of Maryland.

- The General Assembly's Administrative, Executive, and Legislative Review Committee reviews the regulatory proposal for fiscal and legal analysis.
- The proposal is printed by the Division of State Documents in the Maryland Register.
- A 30 day public comment period begins on the day of publication.

- After review of the comments, the Department may adopt the changes.
- If the Department adopts the changes, they become effective after a notice is published in the Maryland Register that announces approval and the effective date.